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THE HISTORY AND POLICIES OF INDIAN
ADMINISTRATION IN CANADA

1647

T. R. L. MacInnes

1943

HISTORICAL

Government
Publications

FOLLOWING the discovery of the New World three great powers contended for its mastery. This manner of dealing with the natives was characteristically differentiated. Spain pursued a course of ruthless extermination, but fortunately our Canadian Indians were never visited by her galleons. France, on the whole, treated the Indians with kindly paternalism, and the romantic and stirring events that characterized early contact between Indians and Europeans in Canada during their regime form one of the most familiar chapters of the story of the settlement of North America. They, however, at no time conceded that the Indian had rights. Whatever was done for him was a matter of grace. The French government did not maintain any separate official Indian office or service. In a measure, however, they recognized Indian land needs, as in a number of cases royal grants of land to religious orders contained conditions express or implied that in addition to spiritual guidance Indians should be provided with a place to live. Certain private grants by seigneurs to religious orders were similarly conditioned.

Those who were entrusted with British colonial administration took a radically different view of the whole question of native relations, and to Britain alone belongs the credit, if credit there be, of first admitting an inherent aboriginal interest in the soil, to be extinguished only by negotiation with the Indians. As early as 1670, during the reign of Charles II, instructions were given to the governors of the colonies, which, among other matters, directed that Indians who desired to place themselves under the British should be well received and protected.

There are still on record numerous agreements and treaties, dating back as far as the year 1664 and made by the British with the Indians of New England, while Canada was still under French government.

Later it was found necessary to establish an office devoted solely to the administration of Indian Affairs and, in 1755, Sir William Johnson was appointed Indian Superintendent with headquarters in the Mohawk Valley, the country of the Six Nations confederacy in what is now the State of New York. In his time what has come to be known as the "Indian title" was firmly established and recognized, and ever since then that recognition has guided Indian policy, both in Canada and the United States, and the organization then formed was the genesis of subsequent administration in both countries.

Following the Revolution, the Indian Office was removed to Canada. From that time on a continuing administrative organization has been maintained for the protection and advancement of the Indian interests.

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The Magna Charta of all the Indians of Canada is the Proclamation of 1763 enunciated by Sir William Johnson three years after the conquest of Canada which set forth that no Indian could be dispossessed of his lands without his consent and the consent of the Crown, and the reason of our success with the management of Indians is based on that broad general principle. The sacredness of treaties and agreements with Indians has been respected in this country. Accordingly treaties have been made from time to time with various groups of Indians as the Dominion has been opened up. These treaties provide for the cession of the Indian interest in consideration of land grants, educational facilities, and so forth. Not all the Indians are under formal treaties but all have had their needs provided for, and the government has more than fulfilled the letter of its obligations.

That was the bright side. There was a dark one. Whenever new countries are opened up, disease and degradation will be found among the outriders of the march of civilization. These our Indians encountered. True the missionary was early on the scene as a friend and helper, ready to face untold hardship and even torture and death if need be with selfless devotion to the ideal. A friend also was the government official, who appeared first as a military officer and latterly as a civil servant. There came also the vanguard of adventurers, gentlemen or otherwise, trading into the Hudson's Bay or anywhere else where money was to be made in the fur trade, with the Indians hunting the fur; and the trader with the strongest firewater got the best of the fur. Thus in their first collision with the white men and his ways the Indians tended to sicken and deteriorate. As colonization proceeded they began to leave the healthy tepees and became shack and cabin dwellers. Of sanitation they knew nothing. They fell a prey to tuberculosis and other maladies hitherto unknown to them. For a time it seemed that they were doomed. But the government determined that the race should be saved.

At the end of the eighteenth and the beginning of the nineteenth century the Department was divided, the office of the Superintendent General of Indian Affairs and of the Secretary of the Department was in Montreal, and that of the Deputy Superintendent General and the Assistant Secretary at Fort George (Niagara).

By a general order, May 13, 1816, the management of Indian Affairs was placed under the control of the Commander of the Forces in the British North American Provinces. By another general order, on April 13, 1830, the management of Indian Affairs in Upper Canada was placed under Sir John Colbourne, the Lieutenant-Governor for that province, while that in Lower Canada remained under military control. In 1830, by order of His Majesty's government, the Indian Department in Upper Canada was separated from that of Lower Canada, the former being placed under His Excellency Sir John Colbourne, with Col. James Givins as Chief Superintendent for the province.

The Department in Lower Canada was placed under the control of the Military Secretary at Quebec, who at that time, was Lieut.-Colonel Couper, and Lieut.-Colonel D. C. Napier was removed to the Military Secretary's office, to act as secretary with the pay and allowance of a superintendent. After the Act of Union, in 1841 the head office of the Department of Indian Affairs, now united, continued to be at the Seat of Government, which under the old Province of Canada, was moved from one place to another.

Until 1860 the Imperial government was responsible for the management and expense of Indian Affairs, but in that year it was decided that the Province of Canada should assume the charge. By the Act 23, Victoria, Chapter 151, entitled "An Act respecting the management of the Indian lands and property," the management of Indian Affairs was brought under the control of the Crown Lands Department from July 1, 1860, the Commissioner of Crown Lands being from that date, Chief Superintendent of Indian Affairs. After Confederation in 1867, the administration of Indian Affairs, which had been under the management of the several provinces, came under the control of the Dominion of Canada.

There is only one Indian Act and one Indian administration in Canada. In the British North America Act which is the constitution of the Dominion, passed by the British Parliament in 1867, the powers of the Dominion government are listed under Section 91, by number, 24 being "Indians and lands reserved for the Indians." Under this authority the Dominion has complete and unquestioned control over all Indian Affairs. The Indian Act was first passed as such by the Dominion Parliament in 1876 and has since been amended from time to time to meet changing conditions. Prior to Confederation, in addition to the old Province of Canada, several of the colonies which now form the Dominion had Indian legislation and some administrative organization for Indian Affairs.

Indian Affairs was attached to the Department of the Secretary of State at the time of Confederation. By the Act 36, Victoria, Chapter 24, the Department of the Interior was created from July 1, 1873, and the Indian Branch attached to that Department. In 1880 a separate Department of Indian Affairs was created by the Act 43, Victoria, Chapter 28. Its Minister was styled Superintendent General of Indian Affairs. The portfolio was separate but invariably was held contemporaneously with another. It is interesting to note that the first Minister of the Department was the famous Sir John A. Macdonald, who held the office, together with that of Prime Minister. Subsequent Superintendents General usually were also Ministers of the Interior. The Department of Indian Affairs ceased to exist on December 1, 1936. Its continuing administrative successor is the Indian Affairs Branch of the Department of Mines and Resources which was established from that date, and which incidentally takes in a number of governmental activities which previously were administered by separate departments including the former Departments of Interior, Immigration, and Mines.

The settlement of Canada has been peaceable and we have been free largely from "Indian Wars." The Indians from the earliest times have appreciated their treatment by the British Crown. Their loyalty has been traditional. In 1776 and 1812 they gave valuable military assistance to our cause. In the Great War more than four thousand Canadian Indians enlisted, although they were expressly exempt from conscription. A number of them were decorated for conspicuous gallantry and several earned their commissions. The number of enlistments represented approximately thirty-five per cent of the Indian male population of military age in the nine provinces, and it must be remembered, moreover, that there were undoubtedly cases of Indian enlistment which were not reported to the Department. The Indian soldiers gave an excellent account of themselves at the front, and their officers have commended them most highly for their courage, intelligence, efficiency, stamina, and discipline. In daring and intrepidity they were second to none and their performance is a ringing rebuttal to the familiar assertion that the red man has deteriorated. The fine record of the Indians in the Great War appears in a peculiarly favourable light when it is remembered that their services were absolutely voluntary, as they were specially exempted from the operation of the Military Service Act, and that they were prepared to give their lives for their country without compulsion or even fear of compulsion. It must also be borne in mind that a large part of the Indian population is located in remote and inaccessible locations, where the Indians were unacquainted with the English language and, therefore, not in a position to understand the character of the war, its cause or effect. It is, therefore, a remarkable fact that the percentage of enlistments among the Indians was fully equal to that among other sections of the community and indeed far above the average in a number of instances. As an inevitable result of the large enlistment among them and of their share in the thick of the fighting, their casualties were very heavy, and the Indians in common with their fellow countrymen of the white race had to mourn the loss of many of their most promising young men. The Indians are especially susceptible to tuberculosis, and many of their soldiers who escaped the shells and bullets of the enemy succumbed to this dreaded disease upon their return to Canada as a result of the hardships to which they were exposed at the front.¹

The Indian Affairs Branch may be said to deal with the whole life of a people, numbering more than a hundred thousand and scattered in small communities over the entire Dominion. In a general summary it is only possible to touch very lightly upon its many and varied activities. Two distinct but complementary principles have guided Canadian Indian policy--protection and advancement.

¹There have been approximately 1,800 Indian enlistments in the present war, 1939.

Among the leading functions of Canadian Indian administration may be mentioned the management of Indian reserves and lands, the management of Indian Trust Funds, relief, education, medical services, and agricultural and industrial supervision.

As above mentioned, at Confederation, Indian Affairs were vested in the Dominion Parliament, which alone can legislate for Indians and lands reserved for Indians. This was a wise provision as it ensured uniform treatment of the Indian population. The whole law affecting Indians is contained in the Indian Act and its provisions cover all the needs of the case. The law provides protection for Indian lands and properties, prevents exploitation of their real and personal estate, provides for their education, for the administration of their funds, and finally arranges for their enfranchisement, and thus enables them to attain full citizenship.

Special tracts of land varying in size have been set aside in all parts of Canada for their sole use and benefit. Indians are not restricted to these reserves, but are encouraged to occupy them and make the fullest use of their natural resources.

During a long period of protective administration various Indian bands have accumulated considerable funds derived mainly from the sale of their natural resources. The total of such funds has increased from some \$200,000 in 1870, to more than fifteen million at the present time (1943). These funds are administered direct from Ottawa and their expenditure is carefully circumscribed by statute. Formerly a percentage was deducted from band funds for management and placed in an Account known as the Management Fund Account. It was abolished in 1913 and no charge of the kind is now made. Formerly, a substantial part of the cost of Indian education was met from band funds, but since 1928 this practice has been discontinued, and all costs of Indian education are met from public appropriation.

A measure of local self-government on reserves is provided for by the Indian Act in accordance with democratic principles. The Indians, to whom this provision is applied by Order in Council, elect chiefs and councillors who correspond to the local elective officers in rural municipalities. They have power to pass regulations with regard to the control of conditions and various public services on the reserves, and expenditure of band funds subject to the approval of the Governor in Council. Elections are held every three years. These provisions have been applied to virtually all the Indians in Ontario, Quebec, and the Maritime Provinces. In the Prairie Provinces and British Columbia and the North West Territories with few exceptions, the Indian bands are not considered sufficiently advanced for the elective system and the chiefs and councillors are hereditary or appointed by the Department. For especially advanced Indians, there is the Indian Advancement Act, Part II of the Indian Act.

Under it, the chiefs and councillors are given wider powers, are elected annually, and their regulations do not require approval by the Governor in Council, but only by the Department. This Advancement system has been introduced on about twelve reserves, all but three of which, singularly enough, are in northwestern British Columbia where the Indians are progressive, the remainder being two in Ontario and one in Quebec. Indians ordinarily resident on reserves other than returned soldiers cannot vote in Dominion elections, and the rule in most provinces for provincial elections is similar.

Advanced Indians may be enfranchised under the Indian Act by Order in Council, on their own application, whereupon they cease to be Indians and attain full citizenship. Many of them have taken advantage of the opportunity thus afforded, and some of them are doing well in learned professions and in business.

It has been estimated from such data as are available that at the advent of the white man the Indian population of what is now Canada was approximately 200,000. In the early stages of contact with civilization, for reasons that have been mentioned, the Indian population declined. During the past half-century, however, there has been a definite upswing, with some temporary setbacks, due to epidemics and other specific causes. Statistics, which are now much more reliable than they were in earlier periods, show that for the decade between 1929 and the present year, 1939, the average yearly increase is about one per cent. The present population is approximately 118,000.

The local administration of Indian bands, on the reserves scattered throughout the Dominion, is conducted through the Department's agencies, of which there are more than a hundred. The number of bands included in an agency varies from one to more than thirty.

The staff of an agency usually includes various officers, in addition to the agent, such as the medical officer, clerk, farm instructor, field matron, nurse, constable, stockman, and others, according to the special requirements of the agency in question. At many of the smaller agencies in the older provinces, where the Indians are more advanced, the work is comparatively light, requiring only the services of an agent. The work of the agencies is supervised by the Department's inspectors, and in British Columbia by a Commissioner.

The staff of the Department does not vary very much from year to year in number. The total number of employees is about a thousand, of whom some sixty-five are at headquarters and the remainder in the field.

In passing it may be mentioned that just after Confederation the total number of employees inside and out was less than a hundred.

Annual Expenditure from public appropriation is

approximately \$5,500,000. In the first two decades following Confederation it was less than one-tenth of that amount. A revolving fund of \$350,000 for loans to Indians was authorized by Parliament in 1938 and is now in operation.

INDIAN EDUCATION

Very early in the administration the necessity arose for the education of the natives, and the early missionaries began to instruct the Indians. Early in the nineteenth century schools were established. This has led to a wide development and we have now 78 residential and 275 Indian day schools² in operation, with a pupilage of about 17,000. The Department has had the close co-operation of religious denominations in the education of the Indian. Thus Christianization and education go hand. The residential schools are conducted by the Anglican, Roman Catholic, Presbyterian, and United Churches. High tribute must be paid to the zeal and self-sacrifice of those engaged in this work. Education is free: the government provides the buildings and pays the managing authorities a per capita grant for each pupil in residence. In addition to the regular academic subjects, the girls are taught domestic arts, and the boys agriculture, the care of cattle and the use of ordinary tools. Considerable success has followed this plan. Elsewhere day schools meet more nearly the educational requirements. The mental endowment of Indians is not inferior to that of other races. We find that where they have been in long contact with civilization Indian pupils of the present can compete successfully with white children.

The economic adjustment of the Indians to modern life is a large problem engaging the close attention of the Department in all settled parts of the Dominion. The policy of the Department and the efforts of the staff are directed towards making the Indians self-supporting. In the older provinces of Ontario and Quebec they are leading the normal life of the ordinary Canadian citizen, either engaged in agriculture on the reserves or mingling with the general population. We have practising physicians, graduates of universities, and men and women engaged in clerical and business occupations. The larger portion of the Indian population of Canada is west of Lake Superior, and it was adopted in a primitive state by the Dominion shortly after Confederation. The aboriginal title to the vast areas east of the Rocky Mountains was extinguished; annual gifts of cash, special reserved lands, assistance in agriculture and education were promised by the government. In the Prairie Provinces,

²Revised to March 31, 1942.

particularly, an intensive policy of agricultural assistance has been necessary. When the buffalo failed in 1878, the Indians were left destitute and they had to be rationed. Today as a direct result of state measures, notably the introduction of agriculture and stock-raising under departmental supervision, the grandsons of the intrepid riders of the plains who chased the thundering herds are engaged in the less spirited but more progressive occupations of grain-growing and ranching. And they are successful. Their crops compare favourably with those of the white farmers, and their livestock is of the best.

The hunting and fishing Indians comprising nearly half of the whole Indian population have suffered in late years from depletion of the game and fish and restrictive legislation. Administration of game and fish is under the provinces. In co-operation with them the Dominion is endeavouring to improve the situation of these Indians by special privileges, and conservation and development projects. Substantial progress is being made. Recently, also, the Department has undertaken to promote Indian handicraft on a commercial basis.

INDIAN HEALTH SUPERVISION

All matters appertaining to the health of Indians are conducted by the Indian Affairs Branch. The administrative staff was strengthened by the addition of a medical Superintendent, and the creation of a special Medical Branch, some ten years ago, and this innovation has proved of great value in supervising and co-ordinating the various health activities.

TRANSITION

In the slow process of adjusting the Indian to modern life, special forms of regulation of conduct have been deemed necessary. Perhaps the most familiar of these is the prohibition of the use of alcohol by Indians. That provision has been on the Statutes of Canada since Confederation and was found also in previous colonial legislation. The Indian Act also prohibits the appearance of Indians in native costume without consent at pageants, and also dances or ceremonies involving mutilation of the body. It may seem arbitrary on our part to interfere with the native culture. The position of the Department, however, may be understood, when it is pointed out that Indians will spend a fortnight preparing for a Sun-Dance, another fortnight engaging in it, and another fortnight to get over it. Obviously this plays havoc with summer ploughing.

These inherent difficulties are being overcome, and each new generation becomes noticeably more adaptable to modern conditions.

In the newer provinces where association of the Indians with whites covers but a short period, the reserve system is undoubtedly the only satisfactory one. It is intended to ensure the continuation of the tribal life and that of the individual as an Indian, and as well to render possible a continuous and consistent administrative policy directed toward civilization. In the older provinces, however, where Indians have mixed and intermarried with whites for more than a century, the efficiency of the reserve system tends to weaken. In Southern Ontario and Quebec, there are communities of Indians who for the most part show little trace of their ancestry, either in their physiognomy, colour, or habits of life. There is no apparent reason why these groups should not take their place in the community and assume the responsibility of citizenship. As aforesaid, however, under the present law an Indian can only be enfranchised on his own application, and while some are prepared to take advantage of this opportunity, the great majority cling to tutelage, apparently reluctant to forgo the privileges and exemptions that it affords.

While complete enfranchisement is visualized as the ultimate goal of Indian policy, the more immediate object of administration is to make the Indians self-supporting on their reserves under the varying degrees of supervision that local conditions may demand.

Indian Affairs Branch,
Department of Mines and Resources,
Ottawa.

x Save for the provisions of sub-section 14 of Section 110 which has never been invoked.

